

CR-09 00930 JF PVT

UNITED STATES DISTRICT COURT  
FILED

NORTHERN DISTRICT OF CALIFORNIA

2009 SEP 23 P 2:34

SAN JOSE DIVISION

RICHARD W. WIEKING  
CLERK  
U.S. DISTRICT COURT  
NO. DIST. OF CA. S.J.

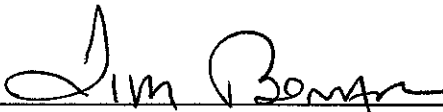
THE UNITED STATES OF AMERICA

vs.

MYRA HOLMES


SEALED BY ORDER  
OF THE COURT

## INDICTMENT

COUNT ONE: 18 U.S.C. § 152(5) - Concealment of AssetsCOUNT TWO: 18 U.S.C. § 1344 - Bank Fraud*A true bill.*  
ForepersonFiled in open court this 23 day of Sept.

A.D. 2009

  
UNITED STATES MAGISTRATE JUDGEBail. \$ No Bail Arrest Warrant

DOCUMENT NO	CSA's INITIALS
	
DISTRICT COURT CRIMINAL CASE PROCESSING	

C  
JH

JOSEPH P. RUSSONIELLO (CASBN 44332)  
United States Attorney

FILED

ORIGINAL

2009 SEP 23 P 2:34

RICHARD W. WIEKING  
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SEALED BY ORDER  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

CR - 09 00930

UNITED STATES OF AMERICA,

No.

JF DVT

Plaintiff,

v.

MYRA HOLMES,

Defendant.

VIOLATIONS: 18 U.S.C. § 152(5) –  
Concealment of Assets; 18 U.S.C. § 1344 –  
Bank Fraud

INDICTMENT

The Grand Jury charges:

INTRODUCTORY ALLEGATIONS

At all times relevant to this Indictment:

1. Leonard Paige and his wife Carrie B. Paige ("the Paiges") resided in Marina, California. Defendant Myra Holmes ("Holmes"), who is the daughter of the Paiges, resided in a house located at 312 Moonraker Drive in Vallejo, California ("the Vallejo property").
2. Prior to April 2002, the Paiges and Holmes each possessed a 50% ownership in the Vallejo property as joint tenants. The Paiges' interest in the property was for title purposes held solely in Leonard Paige's name as his sole and separate property.

INDICTMENT

1           3. In April 2002, the Paiges filed a voluntary petition for reorganization under Chapter 11  
2 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of  
3 California in San Jose, California ("the bankruptcy court"), Case Number 02-52371 ASW. The  
4 Paiges' bankruptcy application sought to discharge over \$2,600,000 in debts. The Paiges  
5 disclosed in their bankruptcy application a 50% ownership interest in the Vallejo property.

6           4. In 2004, the Paiges' chapter 11 bankruptcy case was converted to chapter 7 and John  
7 Richardson ("Trustee Richardson") appointed as trustee of the Paiges' bankruptcy estate ("the  
8 bankruptcy estate"). The Paiges submitted documents in 2004 in connection with their  
9 bankruptcy proceedings which reconfirmed that they had a 50% interest in the Vallejo property.

10           5. From late 2004 until the middle of 2005, Trustee Richardson discussed with Holmes  
11 the prospect of Holmes buying the bankruptcy estate's half of the Vallejo property at a discount  
12 (to avoid house sale expenses) as opposed to the bankruptcy estate selling the house. These  
13 discussions about a potential sale were unsuccessful, and Holmes continued to reside in the  
14 Vallejo property.

15           6. On July 5, 2005, Trustee Richardson sued Holmes in order to facilitate the sale of the  
16 Vallejo property and thus use the Paiges' 50% interest in the house to pay their creditors. Trustee  
17 Richardson filed a "Complaint for Authority to Sell Real Property Free of Interest of Co-Owner  
18 under 11 U.S.C., Section 363(h)" in the bankruptcy court.

19           7. On August 26, 2005, Holmes filed an answer to Trustee Richardson's complaint in the  
20 bankruptcy court. Holmes' answer to the complaint acknowledged that the bankruptcy estate  
21 owned 50% of the Vallejo property. Holmes opposed the proposed sale of the Vallejo property,  
22 arguing that the detriment to her outweighed the benefit to the bankruptcy estate.

23           8. Defendant Myra Holmes maintained a bank account at WestAmerica Bank in  
24 California.

25           9. World Savings Bank was an FDIC-insured Bank headquartered in Oakland,  
26 California.

27 //

28 //

THE SCHEME TO DEFRAUD

10. Beginning in November 2005 in the Northern District of California, the defendant, Myra Holmes, ("Holmes") along with other persons known and unknown, did knowingly devise, and intend to devise, a material scheme and artifice to defraud and to obtain money by means of materially false and fraudulent pretenses, representations, and promises, knowing that those pretenses, representations and promises were false when made.

11. The purpose of the scheme to defraud was for Holmes to enrich herself by convincing her father Leonard Paige to convey his interest in the Vallejo property to her without consideration and without notifying, or obtaining the permission, of the bankruptcy court or the bankruptcy trustee.

12. It was further part of the scheme to defraud that once Holmes convinced her father to convey his interest in the Vallejo property to her, Holmes withdrew the equity from the Vallejo property through a refinancing mortgage loan which she procured by a refinancing application which contained material false statements and omissions.

13. On November 14, 2005, Holmes induced her father Leonard Paige to execute a grant deed which conveyed his interest in the Vallejo property to Holmes. The transfer was memorialized in a grant deed which both Paige and Holmes signed. Neither Paige nor Holmes notified the bankruptcy court or Trustee Richardson prior to executing this grant deed.

14. Also on November 14, 2005, Holmes signed a "Uniform Residential Loan Application" to refinance the mortgage on the Vallejo property. Holmes made several materially false statements and omissions on her November 14, 2005 refinancing application, including the following.

(a) Holmes listed herself as owning \$600,000 in real estate—which she represented as the entire market value of the Vallejo property—when in fact as she then knew she did not own that amount of real estate since the bankruptcy estate lawfully held a 50% interest in the Vallejo property.

(b) Holmes checked boxes indicating that she had "an ownership interest in a property the last three years," but described it as a principal residence in which she

1 held title "solely by herself," when in fact as she then knew she had never held  
2 sole title to Vallejo property and in fact had shared title in that residence since  
3 April 2002 with the bankruptcy estate.

- 4 (c) Holmes knowingly failed to disclose on her refinancing application: (1) that the  
5 Vallejo property was the subject of bankruptcy proceedings; (2) that the  
6 bankruptcy estate had a 50% interest in the Vallejo property; (3) that the  
7 bankruptcy estate had filed a motion for authority to sell the Vallejo property  
8 which was still outstanding before the bankruptcy court.

9 15. As a result of her fraudulent refinancing application, Holmes ultimately received a  
10 refinanced mortgage from a World Savings Bank branch located in Oakland, California. The  
11 new loan, which funded on November 21, 2005, increased the outstanding mortgage on the  
12 Vallejo property from approximately \$180,000 to approximately \$338,000.

13 16. The new loan on the Vallejo property funded on or about November 21, 2005. On or  
14 about November 21, 2005 World Savings Bank: (1) wired \$176,017.68 to Wells Fargo to pay off  
15 the existing mortgage on the Vallejo property; and (2) wired \$131,410.44 to Holmes' personal  
16 bank account at WestAmerica Bank. As part of Holmes' refinancing with World Savings Bank,  
17 the Financial Title Company branch located in Oakland, California, wrote several checks out of  
18 escrow funds to settle personal debts Holmes owed—including payments to Neiman Marcus, Lord  
19 & Taylor, Macy's and Spiegel.

20 17. By the end of April 2006, Holmes had spent on personal expenses virtually all of the  
21 \$131,410.44 that she had fraudulently received as a result of the November 2005 refinancing of  
22 the Vallejo property.

23 18. Holmes to date has not repaid the bankruptcy estate for the funds she took out of the  
24 Vallejo property in the November 2005 refinancing.

25 COUNT ONE: (18 U.S.C. § 152(5) – Concealment of Assets)

26 19. The factual allegations contained in paragraphs 1 through 18 are incorporated as if  
27 fully set forth here.

28 20. On or about November 14, 2005 in the Northern District of California, and

1 elsewhere, the defendant

2 MYRA HOLMES,

3 did knowingly and fraudulently receive a material amount of property from a debtor after the  
4 filing of a case under Title 11, specifically her father's interest in the house located at 312  
5 Moonraker Drive in Vallejo, California, with intent to defeat the provisions of Title 11 of the  
6 United States Bankruptcy Code.

7 All in violation of Title 18, United States Code, Section 152(5).

8 COUNT TWO: (18 U.S.C. § 1344 – Bank Fraud)

9 21. The factual allegations contained in paragraphs 1 through 18 are incorporated as if  
10 fully set forth here.

11 22. On or about November 14, 2005, in the Northern District of California and  
12 elsewhere, the defendant

13 MYRA HOLMES,

14 for the purpose of executing a scheme to obtain money owned by and under the custody and  
15 control of World Savings Bank, a federally insured financial institution, by means of material  
16 false and fraudulent representations and material omissions, namely, the scheme described in  
17 paragraphs 1 through 18, did knowingly sign and submit a "Uniform Residential Loan  
18 Application" containing false information and omitting material information to World Savings  
19 Bank.

20 All in violation of Title 18, United States Code, Section 1344.

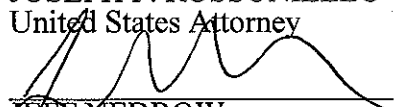
21 DATED:

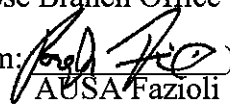
22 9-23-09

23 A TRUE BILL.

24   
FOREPERSON

25 JOSEPH P. RUSSONIELLO  
United States Attorney

26   
27 JEFF NEDROW  
Deputy Chief, San Jose Branch Office

28 (Approved as to form: )  
AUSA Fazioli

INDICTMENT

AO 257 (Rev. 6/78)

**DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT**BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT  
☒ SUPERSEDINGName of District Court, and/or Judge/Magistrate Location  
NORTHERN DISTRICT OF CALIFORNIA**OFFENSE CHARGED**COUNT ONE: 18 U.S.C. § 152(5) -  
Concealment of Assets

COUNT TWO: 18 U.S.C. § 1344 - Bank Fraud

**PENALTY:**Count One: Five Years Prison, \$250,000 Fine,  
Three Years Supervised Release, \$100 Sp. AssessmentCount Two: Thirty Years Prison, \$1,000,000 Fine,  
Five Years Supervised Release, \$100 Sp. Assessment**PROCEEDING**Name of Complainant Agency, or Person (& Title, if any)  
Special Agent Heather Young - FBI☐ person is awaiting trial in another Federal or State  
Court, give name of court☐ this person/proceeding is transferred from another  
district per (circle one) FRCrP 20, 21 or 40. Show  
District☐ this is a reprosecution of  
charges previously dismissed  
which were dismissed on  
motion of:☐ U.S. Att'y ☐ Defense☐ this prosecution relates to a  
pending case involving this same  
defendant☐ prior proceedings or appearance(s)  
before U.S. Magistrate regarding  
this defendant were recorded underSHOW  
DOCKET NO.MAGISTRATE  
CASE NO.Name and Office of Person  
Furnishing Information on  
THIS FORM

JOSEPH P. RUSSONIELLO

☒ U.S. Att'y ☐ Other U.S. AgencyName of Asst. U.S. Att'y  
(if assigned)

JOSEPH A. FAZIOLI

DEFENDANT - U.S.

MYRA HOLMES

DISTRICT COURT NUMBER

**CR - 09 00930 JF**

DEFENDANT

**IS NOT IN CUSTODY**

- 1) ☒ Has not been arrested, pending outcome this proceeding.  
If not detained give date any prior summons  
was served on above charges
- 2) ☐ Is a Fugitive
- 3) ☐ Is on Bail or Release from (show District)

**IS IN CUSTODY**

- 4) ☐ On this charge
- 5) ☐ On another conviction
- 6) ☐ Awaiting trial on other charges
- } ☐ Fed'l ☐ State
- If answer to (6) is "Yes", show name of institution

Has detainer  
been filed? ☐ Yes ☐ No } If "Yes"  
give date  
filedDATE OF  
ARREST

Month/Day/Year

Or... If Arresting Agency &amp; Warrant were not

Month/Day/Year

DATE TRANSFERRED  
TO U.S. CUSTODY☐ This report amends AO 257 previously submitted**ADDITIONAL INFORMATION OR COMMENTS****PROCESS:**☐ SUMMONS ☐ NO PROCESS\*☒ WARRANT Bail Amount: NO BAIL

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

\*Where defendant previously apprehended on complaint, no new summons  
or warrant needed, since Magistrate has scheduled arraignment

Date/Time:

Before Judge:

Comments: